

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

vs.

CASE NO. 3:97CR00229-012 (JAF)

MARCOS A. RIVERA-HERNANDEZ

\* \* \* \* \*

**MOTION FOR SOME DISPOSITION**

TO THE HONORABLE JOSE A. FUSTE  
CHIEF U.S. DISTRICT JUDGE  
DISTRICT OF PUERTO RICO

COMES NOW, MARTIN DE SANTIAGO, U.S. PROBATION OFFICER of this Court, presenting an official report on the conduct and attitude of releasee, Marcos A. Rivera-Hernández, who on November 22, 1999, was sentenced to forty-five (45) months of imprisonment after he was convicted of violating 21 U.S.C. § 846. A supervised release term of five (5) years was imposed with the special conditions of drug testing; refraining from possessing controlled substances and firearms, and financial disclosure. A special monetary assessment in the amount of \$100 was also imposed. Since the onset of his supervision, that being on March 28, 2003, he has been supervised by the U.S. Probation Office in the Southern District of Florida.

On January 18, 2006, we were notified by our sister agency in Miami, FL that the offender was arrested on or about August 29, 2005 for a Misdemeanor charge of Battery. On December 6, 2005, after a bench trial, he was found guilty. Adjudication was withheld and he was ordered to pay restitution in the amount of \$2,350, in addition to court costs. As Mr. Rivera believes he was wrongly accused, he is appealing

the sentence. Information obtained and corroborated by our sister agency in Florida revealed that the victim is a career criminal, and whom is well known in the business area where Mr. Rivera has a marine shop, as he has vandalized several other businesses in the past. The incident transpired when the victim was observed attempting to break into Mr. Rivera's business. The offender intercepted him and confronted him which led to a verbal argument and later escalated into a physical confrontation. According to an eye witness, the victim was the first to throw a punch, and Mr. Rivera, in self-defense, retaliated with his own punch causing a more visual mark on the facial area of the victim, and thus, upon arrival of the local authorities, he was arrested as he was perceived to be the aggressor. More so, the eye witness, a businessman in the area, informed the prosecutor of the aforementioned, but he still went ahead with the case.

The offender promptly notified his U.S. Probation Officer of the incident, and he had reportedly been in full compliance of supervision, to the extent that he had been placed in a low-activity caseload in January 2005. The U.S. Probation Office in the Southern District of Florida after having taken into consideration the offender's supervision progress, as well as his promptness in reporting the incident, and the victim having a troublesome criminal history, and presently being on a bond for a Battery case, as well as the eye witness testimony, and all circumstances surrounding the offender's arrest, believe that no adverse action is warranted.

**WHEREFORE,** although the offender has violated the conditions of his supervision by having been arrested for a Misdemeanor Battery Offense, it is respectfully recommended that he be allowed to continue On supervision without any adverse, as recommended by the supervising district. Should he violate any other condition the Court will be notified. Thereupon, he to be dealt with pursuant to law.

In San Juan, Puerto Rico, this 30th day of January 2006.

Respectfully submitted,

EUSTAQUIO BABILONIA, CHIEF  
U.S. PROBATION OFFICER

s/Martin De Santiago  
Senior U.S. Probation Officer  
Federal Office Bldg. Room 400  
150 Chardon Avenue  
San Juan, P.R. 00918-1741  
Tel. 787-766-5860  
Fax 787-771-4063  
E-mail:martin\_de\_santiago@prp.uscourts.gov

**CERTIFICATE OF SERVICE**

I HEREBY certify that on January 30, 2006, I electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Sonia I. Torres-Pabon, Assistant U.S. Attorney and I hereby certify that I have mailed the document by United States Postal Service to the following non CM/ECF participant: Mr. Marcos A. Rivera-Hernández, 13350 S.W. 152<sup>nd</sup> Street, Apt. 2802, Miami, FL 33177.

In San Juan, Puerto Rico, this 30<sup>th</sup> of January 2006.

s/Martin De Santiago  
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Senior U.S. Probation Officer  
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